

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ALBERT SIDNEY JOHNSTON
CHAPTER, ET AL.,

Plaintiffs,

vs.

CITY OF SAN ANTONIO,

Defendant.

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No. 5:17–CV–1072–DAE

ORDER FOR SUPPLEMENTAL BRIEFING

Before the Court are two pending motions for summary judgment.

The Albert Sidney Johnston Chapter of the United Daughters of the Confederacy, Jean Carol Lane, and Robin Terrazas (collectively, “Plaintiffs”) filed a Motion for Partial Summary Judgment on May 16, 2019. (Dkt. # 132.) That same day, the City of San Antonio (“Defendant”) filed a supplemental Motion for Summary Judgment. (Dkt. # 133.)

Plaintiffs assert that they have a property interest in Travis Park and in the Confederate soldier monument (the “Monument”) that was removed from Travis Park. (Dkt. # 132.) Defendant counters that (1) Plaintiffs have no property interest in Travis Park or in the Monument; (2) Plaintiffs do not have a claim under the First Amendment; (3) Plaintiffs do not have a viable procedural due process or

equal protection claim under the Fourteenth Amendment; and (4) Individual Plaintiffs Terrazas and Lane do not have standing. (Dkt. # 133.)

The Fifth Circuit in McMahon v. Fenves, No. 18-50710, 2020 WL 39016 (5th Cir. Jan. 3, 2020) affirmed this Court's finding that the Texas Division of the Sons of Confederate Veterans lack standing to bring their First Amendment claim pertaining to the removal of the Monument.

In light of this recent decision, the Court **ORDERS** the parties to submit well-reasoned and substantive supplemental briefing of **no more than 10 pages** on how this Fifth Circuit opinion affects the arguments put forth in the pending motions, particularly whether Plaintiffs have standing and whether Plaintiffs can bring a First Amendment claim. Briefing is due **on or before January 21, 2020, at 5:00 pm CST**.

IT IS SO ORDERED.

DATED: San Antonio, Texas, January 6, 2020.

A handwritten signature in black ink, appearing to read 'David Alan Ezra', is written over a horizontal line.

David Alan Ezra
Senior United States District Judge